

9 FAM 41.112 PROCEDURAL NOTES

(CT:VISA-783; 10-18-2005)
(Office of Origin: CA/VO/L/R)

9 FAM 41.112 PN1 VISA RECIPROCITY

9 FAM 41.112 PN1.1 Goal of Visa Reciprocity

(CT:VISA-783; 10-18-2005)

The goal of visa reciprocity is to *obtain progressive visa regimes, consistent with U.S. national interests, to encourage international travel that benefits U.S. travelers and business.* Posts are encouraged to contact CA/VO/F/P with questions or suggestions about how to make the visa schedules for the host country simpler and more practicable.

9 FAM 41.112 PN1.2 Role of the Consular Officer

(CT:VISA-783; 10-18-2005)

Consular officers have an important responsibility to ensure that the U.S. practices reciprocity "*insofar as practicable*" toward their host government. *9 FAM 41.112 PN2.2-2 describes the consular officer's function in keeping the Department informed of any changes that would affect the period of validity of nonimmigrant visas, the number of applications for admission, or fees charged.* The consular officer should maintain good contacts with the host government's MFA, along with other ministries that have a stake in visa issues. The consular officer should encourage the host government to adopt a visa regime that is *progressive* and *rational*. Many developing countries are soliciting greater business investments from abroad, as well as increased tourism revenue, *and* may prove receptive to liberalizing their visa regimes as the price to pay for economic development.

9 FAM 41.112 PN1.2-1 Dialogue With U.S. Travelers

(CT:VISA-783; 10-18-2005)

Informal discussions with U.S. travelers can shed light on how closely the host government follows its official reciprocity schedule. Many countries routinely ignore their official schedules, either over-charging for visas or issuing visas of more limited validity than specified. If a pattern of disregard for the posted schedule is detected, the consular officer should approach the host government regarding the inconsistency. If *he or she* is unable to work

out the problem with the *host government*, then the situation should be brought to the attention of CA/VO/F/P, suggesting that the reciprocity schedule for that country be changed to reflect actual practice.

9 FAM 41.112 PN1.2-2 Reports Required to Maintain Reciprocity Schedules

(CT:VISA-783; 10-18-2005)

The Department must have current information on the visa requirements for U.S. nationals entering foreign countries in all nonimmigrant categories as a basis for maintaining 9 FAM PART IV, Appendix C. A cable should be submitted promptly to CA/VO/F/P whenever any significant change occurs that would affect the period of validity of nonimmigrant visas, the number of applications for admission, or the fees charged.

9 FAM 41.112 PN2 PRACTICABLE RECIPROCITY

(CT:VISA-783; 10-18-2005)

- a. To achieve reciprocity, the INA does not require that our visa schedules mirror those of the host countries exactly. Visa validity, numbers of entries, and fees should be reciprocal "insofar as practicable." This important qualification recognizes that many countries' visa regimes are so complex, arbitrary, or ill-considered that matching them item for item would be unwise. For example, certain countries maintain an extensive tiered fee schedule. Tiered fee schedules are difficult for posts to practice and maintain, and can cause confusion for both applicants and officers. In order to eliminate the maintenance of complicated schedules, post might establish reciprocity by using the average fee cost and validity as the basis for establishing a single fee and validity.*
- b. Department practice is to discount from our reciprocity fee calculations the amount of our machine-readable visa (MRV) fee from any fee charged by the host government. For example, if host government charges american citizens (Amcits) \$150 to apply for a visa, our reciprocal issuance fee for nationals of that country would appropriately be set at \$50 (\$150 minus the \$100 MRV fee.)*

9 FAM 41.112 PN3 DEPARTMENT APPROVAL NECESSARY FOR RECIPROCITY CHANGE

(CT:VISA-783; 10-18-2005)

Posts should inform CA/VO/F/P if it plans to pursue changes to the reciprocity schedule. Negotiated changes must be cleared with the Department (L/CA and CA/VO/F/P) before being finalized. After determining what changes are appropriate, posts should send a cable to CA/VO/F/P identifying the specific changes they are requesting, and corresponding background information and justification. CA/VO/F/P will consult with the appropriate Department offices and respond to the reciprocity change request. CA/VO will also consult with the Department of Homeland Security (DHS) before increasing any period of validity or establishing a period of validity in the first instance.

9 FAM 41.112 PN4 FORMAL RECIPROCITY AGREEMENTS NOT NECESSARY

(CT:VISA-783; 10-18-2005)

- a. It is not necessary for a formal reciprocity agreement to be in existence between the United States and the host country. U.S. reciprocity schedules are based on what the host government imposes on U.S. travelers in practice, regardless of whether we have an agreement with that country.
- b. Occasionally, a host government may insist on an exchange of notes or letters to formalize a change to the existing reciprocity schedule. In such cases, posts should ensure that the notes or letters:
 - (1) Do not create any binding legal obligations;
 - (2) Specify that the U.S. may limit the validity of the visa to certain applicants where warranted; and
 - (3) Make clear that the U.S. will continue to collect the application (MRV) fee, except from those individuals who are exempt from this requirement. (See 22 CFR 41.107(c)).

9 FAM 41.112 PN4.1 When Diplomatic Relations Have Been Severed

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In a case where the U.S. does not enjoy diplomatic relations with a particular country, our visa schedules should be established on the basis of reciprocity, and should match as nearly as practicable, the visa regimes that those countries apply to U.S. travelers.

9 FAM 41.112 PN5 RESTRICTIONS OR CONDITIONS IMPOSED ON U.S. GOVERNMENT OFFICIALS

(CT:VISA-783; 10-18-2005)

- a. In accordance with INA 212(d)(8), upon the basis of reciprocity, accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of INA 212(a), except paragraphs (3)(A), (B), (C), and (7)(B).
- b. The Department assumes that the reciprocity required by INA 212(d)(8) exists with respect to C-3 visas unless a report is received to the contrary. Posts should submit such reports to CA/VO/F/P via *cable or e-mail* whenever a foreign government imposes restrictions or conditions on U.S. Government officials. These reports are in addition to those required by 9 FAM 41.112 PN1.